

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

DARRICK AND YOLANDA GRIMES,
Plaintiffs,

vs.

FREMONT GENERAL CORPORATION,
FREMONT INVESTMENT AND LOAN,
JONATHAN TANENBAUM, AMERICA'S
SERVICING COMPANY, U.S. BANCORP, AND
U.S. BANK, NATIONAL ASSOCIATION, AS
TRUSTEE FOR MASTER ASSET BACKED
SECURITIES TRUST 2006-FRE-1,
Defendants.

Civil Action No. 08-cv-01024 (JGK)

**ORDER GRANTING
MOTION TO DISMISS COMPLAINT
PURSUANT TO RULE 12(B)(6) FOR
FAILURE TO STATE A CLAIM**

THIS MATTER having been brought before the Court by Defendants America's Servicing Company ("ASC"), U.S. Bancorp ("US Bancorp"), and U.S. Bank N.A. as Trustee for Master Asset Backed Securities Trust 2006-FRE-1 ("US Bank/Trustee" and, collectively with ASC and US Bancorp, the "Moving Defendants"), by their counsel, Lowenstein Sandler PC, on a motion to dismiss the Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim; and the Court having considered the parties' respective memoranda of law and the accompanying papers submitted in support of and in opposition to the motion; and good cause having been shown, it is hereby

ORDERED that the Moving Defendants' motion to dismiss shall be, and hereby is, **GRANTED**; and it is further

ORDERED, that Plaintiffs' claims against ASC, US Bancorp, and US Bank/Trustee for violation of the federal Truth In Lending Act, 15 U.S.C. § 1601 *et seq.* (First Cause of Action), violation of the Home Ownership Equity Protection Act, 15 U.S.C. §§

1602(aa) and 1641(d) (Second Cause of Action), violation of Section 349 of the New York State General Business Law (Third Cause of Action), common law fraud (Fourth Cause of Action), conspiracy to commit fraud (Fifth Cause of Action), violation of the federal Real Estate Settlement Procedures Act, 12 U.S.C. § 2601 *et seq.* (Sixth Cause of Action), violation of New York State General Obligations Law Section 5-501 (Seventh Cause of Action), violation of the Fair Housing Act, 42 U.S.C. § 3601 *et seq.* (Eighth Cause of Action), violation of the Equal Credit Opportunity Act, 15 U.S.C. § 1691 (Ninth Cause of Action), violation of the Civil Rights Act, 42 U.S.C. §§ 1981, 1982, and 1985 (Tenth Cause of Action), and violation of New York State Human Rights Law, Executive Section 296(5) (Eleventh Cause of Action), shall be, and hereby are, dismissed with prejudice and with costs to be assessed against the Plaintiffs.

Honorable John G. Koeltl, U.S.D.J.